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8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**  
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11 IN RE: MIDLAND CREDIT  
12 MANAGEMENT, INC. TELEPHONE  
13 CONSUMER PROTECTION  
14 LITIGATION  
15  
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Case No.: 11md2286-MMA (MDD)

Member Cases: 14cv2909-MMA (MDD)  
14cv689-MMA (MDD)  
16cv1977-MMA (MDD)  
14cv1355-MMA (MDD)

16 **ORDER GRANTING MOTION FOR**  
17 **RECONSIDERATION**

[Doc. No. 675]

19 On February 21, 2019, the Court adopted the Honorable Mitchell D. Dembin's  
20 Report and Recommendation in its entirety and dismissed with prejudice 25 cases in this  
21 multi-district litigation ("MDL"). Doc. No. 674. Four of the cases dismissed were  
22 14cv2909-MMA (MDD), 14cv689-MMA (MDD), 16cv1977-MMA (MDD), and  
23 14cv1355-MMA (MDD). *See id.*, Exhibit 1. The Plaintiffs from those four cases now  
24 move for reconsideration of the Court's Order under Federal Rules of Civil Procedure  
25 59(e) and 60(b). Doc. No. 675-1 at 1-2. Defendants do not oppose the motion. *See*  
26 Docket. For the reasons stated herein, the Court **GRANTS** Plaintiffs' motion.

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1 **LEGAL STANDARD**

2 A motion for reconsideration may be brought under Federal Rules of Civil  
3 Procedure 59(e) or 60(b). A motion is treated as a motion to alter or amend judgment  
4 under Rule 59(e) if it is filed within twenty-eight days of entry of judgment or the ruling;  
5 otherwise, it is treated as a Rule 60(b) motion for relief from a judgment or order. *Am.*  
6 *Ironworks & Erectors, Inc. v. N. Am. Construction Corp.*, 248 F.3d 892, 898-99 (9th Cir.  
7 2001) (a motion for reconsideration is treated as a motion under Rule 59(e) if it is timely  
8 filed under that rule and as a motion under Rule 60(b) otherwise). Here, the order  
9 referenced was filed on February 21, 2019, and Plaintiffs' motion was filed on February  
10 22, 2019. *See* Doc. Nos. 674, 675. Accordingly, Plaintiffs' motion is properly brought  
11 under Rule 59(e). *See Am. Ironworks & Erectors, Inc.*, 248 F.3d at 898-99.

12 Pursuant to Rule 59(e), district courts have the power to reconsider a previous  
13 ruling or entry of judgment. Fed. R. Civ. P. 59(e). Under Rule 59(e), it is appropriate to  
14 alter or amend a previous ruling or judgment if "(1) the district court is presented with  
15 newly discovered evidence, (2) the district court committed clear error or made an initial  
16 decision that was manifestly unjust, or (3) there is an intervening change in controlling  
17 law." *United Nat'l Ins. Co. v. Spectrum Worldwide, Inc.*, 555 F.3d 772, 780 (9th Cir.  
18 2009) (citation omitted).

19 **DISCUSSION**

20 Here, Plaintiffs move for reconsideration of the Court's order dismissing the four  
21 cases on the grounds that the cases were dismissed in clear error. Doc. No. 675-1 at 2.  
22 The Court agrees. On February 6, 2019, the Court recommended these four cases be  
23 dismissed with prejudice. Doc. No. 672 at 7. Having received no objections to the  
24 Court's Report and Recommendation, this Court adopted the Report in its entirety and  
25 dismissed those cases with prejudice. *See* Doc. No. 674. The cases were subsequently  
26 dismissed and judgments were entered. However, on January 25, 2019, the Court granted  
27 the same four Plaintiffs' motion for reconsideration on an order denying as moot an  
28 extension of time to file discovery questionnaires. Doc. No. 662. In that Order, the

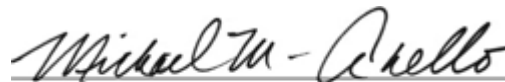
1 Court explained that “[t]hese cases . . . are not on the list for a recommendation of  
2 dismissal.” *Id.* at 2. While Plaintiffs did not object to the Court’s Report and  
3 Recommendation, the Court notes the discrepancy between the January 25, 2019 Order  
4 and the Orders on February 6, 2019 and February 21, 2019. Accordingly, Plaintiffs have  
5 shown a clear error of fact.

6 **CONCLUSION**

7 Based on the foregoing, the Court **GRANTS** Plaintiffs’ motion for reconsideration.  
8 Doc. No. 675. The Court **VACATES** the judgments entered in cases 14cv2909-MMA  
9 (MDD), 14cv689-MMA (MDD), 16cv1977-MMA (MDD), and 14cv1355-MMA  
10 (MDD). The Clerk of Court is instructed to administratively re-open these four cases.

11 **IT IS SO ORDERED.**

12 Dated: February 27, 2019



Hon. Michael M. Anello  
United States District Judge